

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 173

AN ACT

2 To repeal section 321.120, RSMo, and to enact
3 in lieu thereof three new sections relating
4 to fire protection district directors.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
6 AS FOLLOWS:

7 Section A. Section 321.120, RSMo, is repealed and three new
8 sections enacted in lieu thereof, to be known as sections
9 321.120, 321.731, and 321.732, to read as follows:

10 321.120. 1. The decree of incorporation shall not become
11 final and conclusive until it has been submitted to an election
12 of the voters residing within the boundaries described in such
13 decree, and until it has been assented to by a majority vote of
14 the voters of the district voting on the question. The decree
15 shall also provide for the holding of the election to vote on the
16 proposition of incorporating the district, and to select three or
17 five persons to act as the first board of directors, and shall
18 fix the date for holding the election.

19 2. The question shall be submitted in substantially the

1 following form:

2 Shall there be incorporated a fire protection district?

3 ☐ YES

☐ NO

4 3. The proposition of electing the first board of directors
5 or the election of subsequent directors may be submitted on a
6 separate ballot or on the same ballot which contains any other
7 proposition of the fire protection district. The ballot to be
8 used for the election of a director or directors shall be
9 substantially in the following form:

10 OFFICIAL BALLOT

11 Instruction to voters:

12 Place a cross (X) mark in the square opposite the name of
13 the candidate or candidates you favor. (Here state the number of
14 directors to be elected and their term of office.)

15 ELECTION

16 (Here insert name of district.) Fire Protection District.
17 (Here insert date of election.)

18 FOR BOARD OF DIRECTORS

19 ☐

20 ☐

21 ☐

22 4. If a majority of the voters voting on the proposition or
23 propositions voted in favor of the proposition to incorporate the
24 district, then the court shall enter its further order declaring
25 the decree of incorporation to be final and conclusive. In the

1 event, however, that the court finds that a majority of the
2 voters voting thereon voted against the proposition to
3 incorporate the district, then the court shall enter its further
4 order declaring the decree of incorporation to be void and of no
5 effect. If the court enters an order declaring the decree of
6 incorporation to be final and conclusive, it shall at the same
7 time designate the first board of directors of the district who
8 have been elected by the voters voting thereon. If a board of
9 three members is elected, the person receiving the third highest
10 number of votes shall hold office for a term of two years, the
11 person receiving the second highest number of votes shall hold
12 office for a term of four years, and the person receiving the
13 highest number of votes shall hold office for a term of six years
14 from the date of the election of the first board of directors and
15 until their successors are duly elected and qualified. If a
16 board of five members is elected, the person who received the
17 highest number of votes shall hold office for a term of six
18 years, the persons who received the second and third highest
19 numbers of votes shall hold office for terms of four years and
20 the persons who received the fourth and fifth highest numbers of
21 votes shall hold office for terms of two years and until their
22 successors are duly elected and qualified. Thereafter, members
23 of the board shall be elected to serve terms of six years and
24 until their successors are duly elected and qualified. The court
25 shall at the same time enter an order of record declaring the

1 result of the election on the proposition, if any, to incur
2 bonded indebtedness.

3 5. Notwithstanding the provisions of subsections 1 to 4 of
4 this section to the contrary, upon a motion by the board of
5 directors in districts where there are three-member boards, and
6 upon approval by the voters in the district, the number of
7 directors may be increased to five, except that in any county of
8 the first classification with a population of more than nine
9 hundred thousand inhabitants such increase in the number of
10 directors shall apply only in the event of a consolidation of
11 existing districts. The ballot to be used for the approval of
12 the voters to increase the number of members on the board of
13 directors of the fire protection district shall be substantially
14 in the following form:

15 Shall the number of members of the board of directors of the
16 (Insert name of district) Fire
17 Protection District be increased to five members?

18 ☐ YES

☐ NO

19 If a majority of the voters voting on the proposition vote in
20 favor of the proposition then at the next election of board
21 members after the voters vote to increase the number of
22 directors, the voters shall select two persons to act in addition
23 to the existing three directors as the board of directors. For
24 all such elections which occur on or before March 31, 2003, the

1 court which entered the order declaring the decree of
2 incorporation to be final shall designate the additional board of
3 directors who have been elected by the voters voting thereon as
4 follows: the one receiving the second highest number of votes to
5 hold office for a term of three years, and the one receiving the
6 highest number of votes to hold office for a term of six years
7 from the date of the election of such additional board of
8 directors and until their successors are duly elected and
9 qualified. Thereafter, members of the board shall be elected to
10 serve terms of six years and until their successors are duly
11 elected and qualified. For all such elections which occur after
12 March 31, 2003, the court which entered the order declaring the
13 decree of incorporation to be final shall designate the
14 additional board of directors who have been elected by the voters
15 voting thereon as follows: the one receiving the second highest
16 number of votes to hold office for a term of four years, and the
17 one receiving the highest number of votes to hold office for a
18 term of six years from the date of the election of such
19 additional board of directors and until their successors are duly
20 elected and qualified. Thereafter, members of the board shall be
21 elected to serve terms of six years and until their successors
22 are duly elected and qualified.

23 6. Members of the board of directors in office on the date
24 of an election pursuant to subsection 5 of this section to elect
25 additional members to the board of directors shall serve the term

1 to which they were elected or appointed and until their
2 successors are elected and qualified.

3 321.731. 1. Notwithstanding any other provision of the law
4 to the contrary, in any fire protection district which is located
5 within, or which adjoins a fire protection district in which is
6 located within, in whole or in part, a street light maintenance
7 district with a population of less than six thousand inhabitants,
8 and that is located in any county with a charter form of
9 government and with more than one million inhabitants, the board
10 of election commissioners of such county shall establish wards,
11 equivalent to the number of directors, for the purpose of
12 electing directors of such district. The ward boundaries shall
13 be drawn, after notice and hearing, by the commissioners within
14 sixty days after August 28, 2003, or after the establishment of
15 any such fire protection district, or after the merger of any
16 such fire protection district with any other fire protection
17 district and within six months after each decennial census is
18 reported to the President of the United States. In the event the
19 board of election commissioners is unable to agree on the ward
20 boundaries by the deadlines established in this section, the
21 governing body of the county shall, sitting as an apportionment
22 commission, draw the boundaries within sixty days of the failure
23 of the board of election commissioners to do so. Ward boundaries
24 drawn by the governing body of the county shall not be subject to
25 veto by the chief executive of the county. The commissioners

1 shall apportion the wards by dividing the population, determined
2 by the preceding decennial census, of the district by the number
3 of directors and shall establish each ward so that the population
4 of that ward shall, as nearly as possible, equal that figure or
5 be within one percent thereof. Each ward shall be composed of
6 contiguous territory as compact as may be.

7 2. All board members shall be elected by the voters of the
8 ward from which the member is elected to represent. All board
9 members elected or appointed in such district shall be elected or
10 appointed to represent one of the wards, beginning with the first
11 general municipal election or vacancy occurring after such wards
12 are established. Each member shall reside for one year prior to
13 the date of his or her election in the ward from which he or she
14 is elected, or in the case of a vacancy, the ward from which he
15 or she is appointed; and shall forfeit their office if they
16 remove their residence from the ward. Such vacancy may be
17 declared and the office filled by the remaining members of the
18 board as provided by law.

19 3. Elected members of the board in office after such wards
20 are established shall hold office for the length of the term for
21 which they were elected, and until their successors are elected
22 and qualified, and any members appointed to fill vacancies in
23 office occurring after such wards are established shall serve
24 until the next general municipal election, at which time a
25 successor shall be elected to serve for the remainder of the term

1 to which the replaced member was elected.

2 4. If a vacancy occurs subsequent to the eleventh Tuesday
3 but prior to the sixth Tuesday, prior to the general municipal
4 election, notice of election to fill such a vacancy shall be
5 given, within two business days after said vacancy arises but not
6 later than the sixth Tuesday prior to the general municipal
7 election; and declarations of candidacy, to fill such a vacancy,
8 shall be received for a period of five business days, between
9 8:00 a.m. and 5:00 p.m., after said notice is given, but not
10 later than the fifth Tuesday prior to the general municipal
11 election, and the names of the candidates shall be certified to
12 the election authority not later than two business days following
13 the closing date for filing but not later than the fourth Tuesday
14 prior to the general municipal election. Notice of election,
15 declaration of candidacy, and certification to the election
16 authority of any vacancies occurring at any other times shall be
17 filed as otherwise provided by law.

18 5. At the first general municipal election to occur after
19 such wards are established, the elections for the seats of any
20 expiring terms or appointed terms, as provided herein, of
21 at-large board members shall be filled by persons elected from
22 the lowest-numbered wards, as those wards are created and
23 numbered by the board of election commissioners. The second such
24 general municipal election shall be for the lowest-numbered wards
25 not filled at the prior election, and the third such election

1 shall be for the remaining wards not filled at the prior two
2 elections.

3 6. The law governing fire protection districts shall
4 continue to apply to any district described in this section,
5 except as expressly provided in this section.

6 321.732. No employee of any fire protection district,
7 municipal fire department, or other public employer of
8 firefighters shall engage in any electioneering or any political
9 activity while on duty or while wearing a uniform or official
10 insignia identifying the employee as an employee of the fire
11 protection district, municipal fire department, or other public
12 employer of firefighters, nor shall the employee use any fire
13 protection equipment while electioneering or engaging in any
14 political activity. Violation of this section shall be a class
15 four election offense punishable under section 115.637, RSMo, and
16 may result in forfeiture of employment.